

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/30/2020
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FICA FRIO, LTD.,

Plaintiff,

- against -

JERRY SEINFELD,

Defendant.

-----X  
JERRY SEINFELD,

Third-Party  
Plaintiff,

- against -

EUROPEAN COLLECTIBLES, INC.,

Third-Party  
Defendant.

-----X  
**VICTOR MARRERO, United States District Judge.**

This case concerns the sale of an allegedly inauthentic Porsche by third-party defendant European Collectibles, Inc. ("European Collectibles") to defendant and third-party plaintiff Jerry Seinfeld ("Seinfeld") and sale of the same vehicle by Seinfeld to plaintiff Fica Frio Limited ("Fica Frio").

On February 1, 2019, Fica Frio, a Bailiwick of Jersey entity, filed a complaint against Seinfeld, an individual residing in New York, in this district. On February 25, 2019,

Seinfeld filed a third-party complaint (the "Third-Party Complaint," Dkt. No. 11) against European Collectibles, a California corporation.

On January 21, 2020, this Court denied a motion by European Collectibles to dismiss the Third-Party Complaint for lack of personal jurisdiction under Rule 12(b)(2) of the Federal Rules of Civil Procedure ("Rule 12(b)(2)"). Although the Court determined that it had personal jurisdiction over European Collectibles, the Court nonetheless directed the parties to submit letters addressing whether another forum would be better suited to resolve the parties' dispute. (See Jan. 21, 2020 Order, Dkt. No. 26, at 29.)

On January 31, 2020, the parties submitted letters regarding the appropriateness of maintaining the action in the Southern District of New York. (See "European Collectibles' Letter," Dkt. No. 27; "Seinfeld's Letter," Dkt. No. 29; "Fica Frio's Letter," Dkt. No. 30.) Both Fica Frio and Seinfeld agree that the action should be maintained in this district, while European Collectibles argues that California is a more appropriate forum. The Court now construes European Collectibles' Letter as a motion to dismiss the Third-Party Complaint based on forum non conveniens.

In consideration of the parties' correspondence and its own assessment of the issues, the Court is persuaded that neither transfer nor dismissal is warranted. While some witnesses and evidence are located in California, other witnesses and evidence are located in New York and the United Kingdom. Additionally, Seinfeld has represented that he is willing to conduct depositions in California, which will minimize the burden on European Collectibles and witnesses residing in California. See Accantia Grp. Holdings v. Food Mkt. Merch., Inc., 908 F. Supp. 2d 439, 442 (S.D.N.Y. 2012). And, although European Collectibles suggests that some physical evidence might exist in California, European Collectibles does not explain why transporting any such evidence to New York would be burdensome.

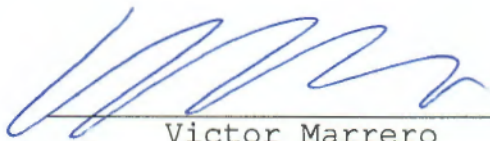
Accordingly, it is hereby

**ORDERED** that the motion so deemed by the Court as filed by third-party defendant European Collectibles to dismiss the Third-Party Complaint (Dkt. No. 11) on the basis of forum non conveniens (Dkt. No. 27) is **DENIED**; and it is further

**ORDERED** that the parties are directed to submit a proposed Case Management Plan within ten days of the date of this Order.

**SO ORDERED.**

Dated: New York, New York  
30 June 2020

  
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Victor Marrero  
U.S.D.J.